A

NG CHONG HWA v. PP

HIGH COURT MALAYA, KUALA LUMPUR
COLLIN LAWRENCE SEQUERAH J
[NOTICE OF MOTION NO: WA-44-182-11-2018]
13 DECEMBER 2018

B

CRIMINAL PROCEDURE: *Bail – Application for – Applicant arrested by Malaysian police based on warrant of arrest requested by United States of America – Magistrate ordered applicant to be remanded for 60 days pending extradition proceedings at Sessions Court – Application to be released on bail pending disposal of extradition proceedings at Sessions Court – Whether applicant posed flight risk – Whether applicant denied access to counsel – Whether remand period of 60 days too long and oppressive – Whether application ought to be allowed*

C

The applicant was arrested by the Royal Malaysia Police based on the warrant of arrest requested by the United States of America ('USA') after the USA Department of Justice filed a prosecution case against him in the Court at New York. The said request was made pursuant to art. 11 of the Extradition Treaty between the Government of Malaysia and the Government of the USA ('the treaty'). The Magistrate's Court ordered for the applicant to be remanded for 60 days pending the extradition proceedings at the Sessions Court. In the present application, the applicant sought orders that he be allowed (i) to be released on bail pending the disposal of the extradition proceedings at the Sessions Court; and (ii) to consult and be defended by a counsel of his choice in the extradition proceedings at the Sessions Court. In support of his application, the applicant submitted that (i) he did not pose a flight risk as his wife and daughter were in Malaysia; (ii) he needed access to his counsel, in accordance with art. 5(3) of the Federal Constitution, in order to prepare for the extradition proceedings; and (iii) the remand period of 60 days ordered by the Magistrate was too long and oppressive as the date of the extradition proceedings at the Sessions Court had not been fixed and might be held much later pending preparation of the necessary papers by the requisition country and the diplomatic process between the requisition country and the requested country.

D

E

F

G

Held (dismissing application):

H

(1) The fact that there were pending extradition proceedings was but one factor to be considered along with many other relevant factors in deciding the grant of bail or otherwise. The applicant had been charged on a three-count criminal indictment related to the 1MDB case in the Eastern District of New York. There could be no argument that the nature of the charges were serious. The fact that the applicant faced serious charges in the USA further served to emphasise that the risk of

I

him fleeing, in order to avoid having to face to those charges, were more than imaginary. The fact that he was barred from leaving the country and that he was willing to surrender his passport and submit himself to the attachment of an electronic monitoring device was no guarantee that he was any less of a flight risk given the ingenious means and modes of 'flying under the radar' nowadays. (paras 34-38)

(2) The applicant's counsel contended that it was not convenient for him to prepare for the extradition proceedings by means of having to make appointments to visit the applicant in prison. It was not alleged or suggested that the applicant's counsel was denied access to his client. As long as access was not denied to his client, the mere inconvenience that might result in counsel having to meet the applicant in prison was no compelling ground for deciding to grant the bail to him. (paras 42, 43 & 46)

(3) The full request from the USA Department of Justice was received by the Attorney-General's Chamber of Malaysia on 28 November 2018 and was sent to the Ministry of Home Affairs on 29 November 2018 for the order of the Minister to transfer the case to the Sessions Court. Extradition proceedings would thus commence shortly. Therefore, the argument that the applicant would be detained for longer than necessary was no longer valid. (paras 48-49)

Case(s) referred to:
Bertran v. Minister of Justice [1999] 165 ALR 155 ***(refd)***
Dato' Seri Anwar Ibrahim v. PP & Another Application [2004] 1 CLJ 592 CA ***(refd)***
Michael Lee v. PP [1998] 1 LNS 369 HC ***(refd)***
PP v. Ottavio Quattrocchi [2003] 2 CLJ 613 CA ***(refd)***
R v. Governor of Belmarsh Prison And Another, Ex Parte Francis [1995] 3 All ER 634
R v. Governor of Brixton Prison Ex Parte Levin [1997] 3 All ER 289 ***(refd)***
Sek Kon Kim v. Attorney-General [1983] 1 LNS 54 HC ***(refd)***
Steve Ferguson Ishwar Galbaransingh v. The Attorney General of Trinidad And Tobago Claim No. CV 2008-00639 ***(refd)***
Tan Hock Chan v. Menteri Dalam Negeri Malaysia & Ors [1994] 2 CLJ 286 HC
Yusof Mohamed v. PP [1995] 1 LNS 291 HC ***(refd)***

Legislation referred to:
Criminal Procedure Code, s. 388(1)
Extradition Act 1992, ss. 37(3), 44
Federal Constitution, art. 5(3)

For the respondent - Ashraf Kamarul, Nik Syahril Nik Ab Rahman; DPPs
For the applicant - Tan Hock Chuan, Natalie Tan & Cains Tan; M/s Tan Hock Chuan & Co

Reported by Najib Tamby

A

JUDGMENT

Collin Lawrence Sequerah J:

Introduction

[1] The applicant abovenamed by way of a notice of motion applied for
B the following orders:

(i) The applicant be allowed to be released on bail subject to terms which are deemed fit and just by this Honourable Court pending the disposal of the extradition proceedings in the Sessions Court; and

C (ii) The applicant be allowed to consult and be defended by a counsel/legal practitioner of his choice in the extradition proceedings in the Sessions Court.

Background

D **[2]** On 1 November 2018, the applicant was arrested by the Royal Malaysia Police based on the warrant of arrest requested by the United States of America after the United States of America Department of Justice filed a prosecution case against him in the court at New York.

[3] The said request was made pursuant to article 11 of the Extradition
E Treaty between the Government of Malaysia and the Government of the United States of America ("the Treaty") that came into force on 2 June 1997 (PU (A) 213).

[4] On 2 November 2018, the Magistrate's Court Criminal 9 at Kuala Lumpur ordered for the applicant to be remanded for 60 days pending the
F extradition proceedings in the Sessions Court at Kuala Lumpur.

[5] The case against the applicant was previously fixed for mention in the Magistrate's Court Criminal 9 at Kuala Lumpur on 11 December 2018.

Basis For The Application

G **[6]** The main basis for the application is that firstly, the applicant does not pose a flight risk, secondly, he needs access to his counsel in order to prepare for the extradition proceedings and thirdly, that the remand period of 60 days ordered by the Magistrate's Court is too long and oppressive.

H **Analysis And Decision**

[7] The applicant is facing extradition proceedings under the Extradition Act 1992 (Act 479) ("Act"). The Act does not contain any provisions in respect of bail save for s. 37(3) which allows for bail to be granted by the Sessions Court pending a review by the High Court of the order by the
I Sessions Court to discharge the fugitive criminal.

[8] However, s. 44 of the Act provides as follows: A

> The provisions of the Criminal Procedure Code in relation to matters not covered by this Act shall apply in so far as they are not inconsistent with the provisions of this Act, and in the event of any inconsistency between the provisions of this Act and the Criminal Procedure Code the provisions of this Act shall prevail. B

[9]`The relevant provision with respect to bail in the Criminal Procedure Code ("CPC") is s. 388(1) which provides:

> **When person accused of non-bailable offence may be released on bail**
>
> 388. (1) When any person accused of any non-bailable offence is arrested or detained without warrant by a police officer or appears or is brought before a Court, he may be released on bail by the officer in charge of the police district or by that Court, but he shall not be so released if there appears reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life: C
>
> Provided that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail. D

[10] Learned counsel for the applicant submitted that this court has unfettered discretion that allows bail pending the hearing of extradition proceedings. In support he cited *Sek Kon Kim v. Attorney-General* [1983] 1 LNS 54; [1984] 1 MLJ 60, where it was held: E

> **In so far as the Extradition Ordinance is concerned, my view is that the court has unfettered discretion to grant bail under section 388(i) of the Criminal Procedure Code.** The main provision of this section states that when any person accused of any non-bailable offence is arrested or detained, he may be released on bail by the OCPD or the court, but shall not be so released if there are reasonable grounds for believing that he has been guilty of an offence punishable with death or life imprisonment. Clearly, the nature of offences allegedly to have been committed by the applicant are equivalent to our local offence of criminal breach of trust, which is a non-bailable offence … (emphasis added) F G

[11] Learned counsel also cited the case of *Michael Lee @ Weng Onn Lee v. Public Prosecutor* [1998] 1 LNS 369; [1999] 1 MLJ 171, where it was held as follows:

> *There is no specific provision in the Act for a court to grant bail. Although there is no specific provision as in s. 23 of the Fugitive Criminals Act 1967 (with which the Extradition Ordinance was repealed by the Act) stating that the provisions of the Criminal Procedure Code (FMS Cap 6) ('the CPC') relating to bail shall apply in the same manner as they would apply if such person was accused of committing in Malaysia the offence of which he is accused or has been convicted* (see its H I

A application in *Sek Kon Kim v. A-G* [1984] 1 MLJ 60 at p 61), *there is a provision under s. 44 of the Act which states that the provisions in the CPC in relation to matters not covered by the Act* shall apply in so far as they are not inconsistent with the provisions of the Act. *With this provision, the provisions relating to bail in Ch XXXVIII of the CPC are imported into the Act, provided the provisions are not inconsistent with the Act.* The provisions of s. 387 relating to
B bailable offences and s. 388 relating to non-bailable offences have pertinence in this matter … (emphasis added)

[12] Learned counsel for the applicant also cited the cases of *Tan Hock Chan v. Menteri Dalam Negeri Malaysia & Ors* [1994] 2 CLJ 286; [1994] 1 MLJ 60 and *Public Prosecutor v. Ottavio Quattrocchi* [2003] 2 CLJ 613; [2003] 3
C MLJ 123, in further support of his application.

[13] The matters that the courts take into consideration when deciding to grant bail were set out in *Sek Kon Kim v. Attorney-General (supra)* as follows:

There are a number of matters which I should consider in granting or
D refusing bail in the exercise of my discretion. Some of these matters are:

(1) The nature and gravity of the offence charged.

(2) The severity and degree of punishment which conviction might entail.

E (3) The guarantee that the accused person if released on bail would not either abscond or obstruct the prosecution in any way.

(4) The danger of the witness being tampered with and whether the accused person if released on bail is likely to tamper with prosecution evidence.

F (5) The opportunity of the accused to prepare the defence.

(6) The character, means and standing of the accused.

(7) The long period of detention of the accused and probability of further period of delay.

G In fact, these matters do not appear to be exhaustive and there may be other points which a trial judge should consider depending on the circumstances of each case.

[14] These conditions were also set out in *Yusof Mohamed v. Public Prosecutor* [1995] 1 LNS 291; [1995] 3 MLJ 66, cited by the learned Deputy Public
H Prosecutor (DPP) as follows:

Since offences under ss. 392, 397 and 400 of the Penal Code are non-bailable offences (see the First Schedule to the CPC), it may be appropriate, at this juncture, to list down the considerations which generally weigh with the courts in deciding as to whether the accused should be allowed to remain on bail or not. These considerations are:

I

(1) the nature of the offence and its seriousness;

(2) the character of the evidence on which the prosecution case rests;

(3) reasonable possibility of the presence of the accused at the trial;

(4) reasonable apprehension of witnesses being tampered with if the accused is released on bail;

(5) the larger interest of the public and the country as a whole; and

(6) various other considerations which may arise in the case such as the propensity, the tendency or the likelihood of the accused participating in the commission of further offences, or his proximate likely attitude, conduct or tendency towards matters, persons or things around him, or in connection with or in relation to the case at hand.

It must not be forgotten that the considerations as listed above are not meant to be exhaustive. Indeed the considerations may be extended from time to time, developing as it were the law of bails. But one thing is certain. It is this. That the grant, refusal or cancellation of bail is a judicial act and has to be performed with judicial care after giving serious consideration to the interests of all the parties concerned.

[15] To hearken back to the grounds of this application, it was submitted firstly that the applicant does not pose a flight risk. The reasons are that the applicant's wife and his daughter are all in Malaysia and his daughter who is six years of age is still studying in Kuala Lumpur (KL).

[16] It was also submitted that the applicant has been barred from leaving the country by the Immigration Department of Malaysia since December 2017 and he has never left the country since December 2017.

[17] The fact of whether or not a person is a flight risk or the likelihood of him absconding is of course a relevant factor to consider here as the main purpose in granting bail is to secure the attendance of the accused in court. It is not meant to be punitive in nature because of the presumption of innocence once a person is charged.

[18] However, although *prima facie* there is nothing that prevents a person facing extradition proceedings from being granted bail, the very nature of extradition proceedings themselves place such cases in a category of their own.

[19] In *Bertran v. Minister of Justice* [1999] 165 ALR 155, cited by the learned DPP, the Federal Court of Australia dismissed the appeal for bail on the reason that the applicant is a flight risk and held the following:

The explanatory memorandum which accompanied the bill which became the Act explains the "special circumstances" requirement in cl. 15(6) as follows:

A *Subclause (6) provides that a person shall not be granted bail unless there are special circumstances. Such a provision is considered necessary because experience has shown that there is a very high risk of persons sought for extraditable offences absconding. In many cases the person is in Australia to avoid arrest in the country where he is alleged to have committed the offence, ie the person left the jurisdiction to avoid justice.*

B *Wu v. Attorney-General (Cth)* (1997) 79 FCR 303 involved an application for bail in reliance on the court's inherent power to grant bail in an extradition case independently of statute. Burchett J referred to the "extreme care and caution" attending the exercise of the power at common law, and continued (at 306-7):

C It seems to me that the common law's "extreme care and caution" and the statute's "special circumstances" are each intended to reflect the same matter – a high risk that a fugitive from his own country may fail to answer bail. This was expressly held to be the basis of the statutory provisions in *Schoenmakers v. Director of Public Prosecutions* (1991) 30 FCR 70 at 73-4, a decision of French J. It is a consideration which should be

D applied bearing in mind the importance of the international obligation undertaken by Australia when it enters into extradition treaties.

His Honour went on to consider the meaning of "special circumstances" in the common law context, which he thought was reflected in ss. 15 and 21 of the Act. After reviewing decisions on that expression in other contexts, he said:

E

These expositions of comparable uses of "special circumstances" support the view, which I hold, that the expression refers to circumstances different, in some way that provides a ground for considering a grant of bail more favourably, from those of the ordinary case of a fugitive remanded in custody. (emphasis added)

F

[20] The respondent also cited a number of cases from the United States of America that employed the "special circumstances" test when deciding whether or not to grant bail in extradition proceedings.

[21] Learned counsel for the applicant on the other hand, urges this court

G not to import the notion or adopt the "special circumstances" test in our jurisdiction submitting that this is not the law in respect of bail applications in our country.

[22] To my mind, the very fact that the applicant is facing extradition proceedings itself and the fact that this increases the likelihood of him being

H a flight risk is a relevant factor to consider in deciding whether to grant bail or not. Some jurisdictions might refer to this as a case of "special circumstances".

I

[23] Irrespective of what label is attached to the term meaning whether it is referred to as "special circumstances" or not, the very nature of extradition proceedings make the likelihood of absconding higher than usual and this is one among many other factors that the court can consider in deciding the question of bail.

[24] To put it another way, it is inherent in the very nature of extradition proceedings itself, the probability that the accused may pose a higher than normal flight risk.

[25] The two cases above-mentioned decided by the courts in our jurisdiction, namely, *Sek Kon Kim v. Attorney-Genera*l and *Yusof bin Mohamed v. Public Prosecutor*, make it clear that the list of factors the courts take into account in deciding the grant of bail is not meant to be exhaustive in nature.

[26] In *Yusof bin Mohamed v. Public Prosecutor (supra)*, it was held that the considerations may be extended from time to time, developing the law in respect of bail.

[27] The highlighted portion in the case of Australian case of *Bertran v. Minister of Justice (supra)* above serves to illustrate the point that in extradition cases, experience has shown that there is a high risk that the accused may abscond.

[28] There is also persuasive authority that extradition proceedings are *sui generis.* This quite clearly emerged in the case of *R v. Governor of Belmarsh Prison And Another, Ex Parte Francis* [1995] 3 All ER 634 as follows:

> *Support for Mr Lewis's proposition that extradition proceedings are sui generis, not criminal proceedings and not subject to the s. 78 criterion of fairness, is to be found in R v. Governor of Pentonville Prison, ex p Lee, R v. Bow Street Metropolitan Stipendiary Magistrate, ex p Lee [1993] 3 All ER 504 at 509-510, [1993] 1 WLR 1294 at 1299-1300, where Ognall J, in a judgment with which Watkins LJ agreed, said:*
>
> … there is highly persuasive authority to be found in the decision of Kaplan J in *Thong Chai Sanguan Dikul v. Government of United States* (1992) 26 May, unreported. It is highly persuasive because the judgment was a subject of a petition for special leave to appeal to the Privy Council. It was heard by the Judicial Committee on 21 January of this year, and refused. It was founded on facts very closely analogous to those in the present case, and was the precursor of Mr Mansfield's present arguments on unused material, most especially unfairness. Kaplan J referred with approval to the majority judgment of the Supreme Court of Canada in *Kindler v. Canada (Minister of Justice)* ([1993] 4 LRC 85, [1991] 2 SCR 779). *In the course of giving that judgment McLachlin J said ([1993] 4 LRC 85 at 124, [1991] 2 SCR 779 at 844): "While the extradition process is an important part of our system of criminal justice, it would be wrong to equate it to the criminal trial process. It differs from the criminal process in purpose and procedure and, most importantly, in the factors which render it fair. Extradition procedure, unlike the*

A *criminal procedure, is founded on the concepts of reciprocity, comity and respect for differences in other jurisdictions."* Subsequently, in his judgment Kaplan J said (of this and other observations to like effect): *"This passage is helpful in that it underscores the very special nature of extradition proceedings having its roots in international comity. To supplement the local legislation, which give effect to treaty obligations by imposing doctrines of fairness applicable to domestic proceedings is to*
B *run a real risk of interfering with such treaty obligations."* Before the Judicial Committee, Lord Griffiths observed to counsel for the applicant, in the course of argument, that although the duty to disclose unused material was a well-settled part of domestic criminal proceedings, extradition was "very different indeed". *We respectfully agree. It is of course right to observe that*
C *the law of extradition proceeds upon the fundamental assumption that the requesting state is acting in good faith and that the fugitive will receive a fair trial in the courts of the requesting state. If it were otherwise, one may assume that our government would not bind itself by treaty to such process. But that is not to say that it is the duty of our courts to enquire into the adequacy or otherwise of the procedural safeguard afforded to a defendant before those courts. Our courts have consistently*
D *resisted attempts to import the requirements of domestic criminal procedure into extradition proceedings. Provided that there has been a compliance with the terms of the 1989 Act, fairness is not a criterion relevant to the function of the committing court.* (emphasis added)

[29] The case above also states that in extradition proceedings, the treaty
E obligations of one country to another is a relevant consideration. The reason can be discerned from the case that follows.

[30] In *R v. Governor of Brixton Prison Ex Parte Levin* [1997] 3 All ER 289, it was held:

In extradition proceedings there is even less scope for the exercise of the
F discretion because, *as McCowan LJ pointed out in R v. Governor of BelmarshPrison, ex p Francis (quoting the Supreme Court of Canada in Kindler v. Canada (Minister of Justice) (1991) 84 DLR (4th) 438 at 488), extradition procedure is founded on concepts of comity and reciprocity.* It would undermine the effectiveness of international treaty obligations if the courts were to superimpose discretions based on local notions of fairness upon the
G ordinary rules of admissibility. I do not wish to exclude the possibility that the discretion may be used in extradition proceedings founded upon evidence which, though technically admissible, has been obtained in a way which outrages civilised values. But such cases are also likely to be very rare. (emphasis added)

H **[31]** It is clear therefore that from a broader perspective, what also needs to be considered are Malaysia's treaty obligations with the United States of America (USA). Extradition proceedings are therefore founded upon the bedrock of international comity and in any bail application in extradition proceedings, the courts in our country cannot imitate Nelson at the Battle of
I Copenhagen and close their eyes to the reality of international obligations.

[32] In a bail application by an accused facing extradition proceedings therefore, one of the compelling factors to be considered amongst others is the overriding national interest in complying with treaty obligations and should bail be extended, the honouring of these obligations are put at risk.

[33] That the consideration of honouring our country's treaty obligations with another is itself a relevant factor to consider in bail applications is borne out in the case of *Yusof bin Mohamed v. Public Prosecutor (supra)* which stated that the larger interest of the public and the country as a whole is a relevant factor to be considered.

[34] At the risk of repetition but for the purpose of clarity, it bears repetition that the fact that there are pending extradition proceedings is but one factor to be considered along with many other relevant factors in deciding the grant of bail or otherwise.

[35] The applicant has been charged on a three-count criminal indictment related to the 1MDB case in the Eastern District of New York. There can be no argument that the nature of the charges is serious.

[36] The fact that the applicant faces serious charges in the US further serves to emphasise that the risk of him fleeing in order to avoid having to face those charges are more than imaginary.

[37] The fact that he is barred from leaving the country and that he is willing to surrender his passport and submit himself to the attachment of an electronic monitoring device is no guarantee that he is any less of a flight risk given the nowadays ingenious means and modes of "flying under the radar" so to speak.

[38] To summarise the matter in respect of this first ground relied upon, I am of the considered view that the fact that the applicant faces extradition proceedings of itself is a relevant factor that makes his propensity to abscond likely.

[39] Malaysia's compliance with her international treaty obligations and the inherent risk that if bail is given, the applicant might abscond is also a relevant factor to be considered. Coupled with the serious nature of the charges faced, there is every likelihood that the applicant will, if granted bail, abscond.

[40] This now brings me to the second ground which is that the applicant needs access to his counsel in order to prepare for the extradition proceedings. In reliance, learned counsel for the applicant cited the provisions of art. 5(3) of the Federal Constitution which reads as follows:

> Where a person is arrested he shall be informed as soon as may be of the grounds of his arrest and shall be allowed to consult and be defended by a legal practitioner of his choice.

[41] That this constitutes an inalienable right of every citizen of this country is beyond dispute.

[42] It has however, not been alleged or suggested that learned counsel for the applicant has been denied access to his client. Counsel however submits that in order to prepare for the extradition proceedings against his client, full access is required and more so in view of the fact that the charges are complex in nature.

[43] To sum up counsel is contending that it is not convenient for him to prepare for the extradition proceedings by means of having to make appointments to visit his client in prison.

[44] The learned DPP on the other hand cited the case of *Dato' Seri Anwar Ibrahim v. PP And Another Application* [2004] 1 CLJ 592, as follows:

> On the plea that the first applicant is missed by his family and that having him on bail would ease the difficulty of his solicitors having to seek permission from the Superintendent of Prison for every visit, we do not think these factors can be considered as special or exceptional circumstances.

[45] They also relied upon the case of *Steve Ferguson Ishwar Galbaransingh v. The Attorney General of Trinidad And Tobago Claim No. CV 2008-00639*, to the following effect:

> The Court still reserves a discretion and I adopt the approach of acting cautiously in the exercise of that discretion before granting bail to accused persons awaiting a section 16 decision. In exercising that discretion I give due deference to the public interest in the reciprocity of international obligations, the serious nature of the crimes for which the Claimants have been charged, the serious penalties of those crimes and the principles enunciated in the authorities referred to the Court.
>
> *Re Hertular, Knowles and R v. Sezak* suggest that in extradition cases the Court must exercise a great degree of care in granting bail which may defeat the international obligations underpinning the arrest. In *Re Hertular No 2* (Belize Law Report pg 38) **Barrow J examined the issue of whether bail should be granted in light of the personal circumstances of the petitioner:**
>
> **In this case the personal factors to which the petitioner referred, the wish to care for his child and the convenience of being better able to instruct his lawyers, are of little weight on an objective assessment.** That would be so even if he were a prisoner arrested on suspicion of crime and detained pending trial in Belize and so had full constitutional right to bail. It is even more so since he is an extradition prisoner.

The mere personal inconvenience of the Claimants in this case is not enough to trump the public interest in honoring its obligations. The Claimants can still access their attorneys … (emphasis added)

[46] I tend to agree with the submissions and the cases cited in support on behalf of the respondent that as long as access is not denied to his client, the mere inconvenience that might result in counsel having to meet the applicant in prison is no compelling ground for deciding to grant bail to him.

[47] The third ground relied in support is that the remand period of 60 days ordered by the Magistrate's Court is too long and oppressive. Learned counsel for the applicant submitted that the date of the extradition proceedings in the Sessions Court at Kuala Lumpur has not been fixed and may be held much later pending preparation of the necessary papers by the requisition country and the diplomatic process between the requisition country and the requested country.

[48] In reply, the learned DPP retorted that the full request from the US Department of Justice (DOJ) was received by the Attorney General's Chambers of Malaysia (AGC) on 28 November 2018 and was sent to the Ministry of Home Affairs on 29 November 2018 for the order of the Minister to transfer the case to the Sessions Court. Extradition proceedings would thus commence shortly.

[49] Therefore, the apprehension that learned counsel had previously entertained with regard to possible delay in the proceedings being commenced with the result that his client, the applicant, would be detained for longer than is necessary is no longer valid.

[50] With regard to the fact that the applicant is ready to render his full co-operation to the relevant authorities, I agree with the submission by the learned DPP that if this were indeed so, the applicant ought to submit to the jurisdiction of the courts in the US and not contest the extradition proceedings here.

[51] For the reasons given above, this application is dismissed. Bail is denied.